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*Of Attorneys for Defendant Oregon
Health & Science University*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

A.B.,

Plaintiff,

v.

Case No 3:21-cv-00311-HZ

**DEFENDANT OHSU’S ANSWER
TO PLAINTIFF’S COMPLAINT**

JURY TRIAL DEMAND

**DR. JASON CAMPBELL and OREGON
HEALTH & SCIENCE UNIVERSITY,**

Defendants.

In answer to plaintiff’s complaint, defendant Oregon Health & Science University (“OHSU”) admits, denies, and alleges as follows:

JURISDICTION AND PARTIES

1. OHSU admits that this action is properly brought in federal court.
2. OHSU admits as of the date of this answer, venue in Oregon (Portland division) is proper. Defendant denies that venue in Portland will remain the proper venue throughout the pendency of this case.

3. OHSU admits that at the time of plaintiff's complaint to OHSU about Campbell, OHSU employed defendant Campbell, and Dr. Esther Choo, Dr. Lalena Yarris, Dr. Michael Aziz, Dr. Sharon Anderson, Dr. Stephen Robinson, Dr. Emily Baird, Dr. Michael Bonazzola, Ms. Linda Strahm, Ms. Laura Stadum, Mr. David Robinson, and Mr. Greg Moawad.

FACTUAL ALLEGATIONS

4. OHSU admits that from January 2020 through April 2020, Plaintiff was employed at the Veteran's Administration ("VA"). OHSU further admits that during that time, Dr. Jason Campbell was an anesthesiology resident at OHSU.

5. OHSU admits that on April 17th, 2020, Plaintiff reported to OHSU's Affirmative Action and Equal Opportunity (AAEO) allegations that Campbell engaged in sexual harassment via text message and non-consensual touching of her at the Veteran's Administration Medical Center. OHSU admits that as part of that report, Plaintiff stated that on April 9, 2020, she reported the incident to her direct supervisors and provided text messages from her phone, Instagram and Facebook. OHSU further admits that Plaintiff also reported that her direct supervisors had in turn reported her complaint to the acting VA EEO program Manager. OHSU further admits that Plaintiff also relayed that she had confided in physician friend about the incident, who in turn encouraged her to report it.

6. OHSU further admits that Plaintiff also stated that she had notified Dr. Esther Choo about the complaint because Dr. Choo was a friend. Plaintiff relayed that Dr. Choo had offered to meet with Campbell, but after viewing the messages, recommended that Plaintiff report the incident. Defendant further admits that Dr. Choo told plaintiff to report what had happened and that reporting was the right thing to do. OHSU further admits that after Dr. Choo offered to meet with Dr. Campbell, she was told by Plaintiff that Plaintiff would be reporting the

incidents herself to through the VA and texted Dr. Choo a screen shot of her email report to the VA on April 9, 2020. OHSU denies that Dr. Choo discouraged Plaintiff from reporting any instances of sexual harassment.

7. OHSU further admits that Plaintiff also relayed that she told Dr. Yarris as a close friend, because Yarris had recently done a Tik Tok video with Campbell and because Yarris was the director of residents in the OHSU ED.

8. OHSU further admits that Plaintiff also relayed that on April 15, 2020, she reported the incident to Veteran's Administration Police and then spoke to Detective Paul Carlson on April 17, 2020.

9. OHSU admits that on April 17, 2020, plaintiff also texted two OHSU Public Safety officers, that she had filed a report with the VA police about Dr. Campbell and that the VA would reach out to them.

10. OHSU admits that under the direction of Laura Stadum, the AAEO office immediately opened an investigation into Plaintiff's complaint, and instructed Campbell to have no contact with the plaintiff on April 22, 2020. OHSU admits that after coordinating with Public Safety and the VA Police as to when to contact Campbell so as not to notify him prematurely and interfere with the criminal investigation, OHSU removed Campbell from clinical duties and excluded him from campus and from contacting plaintiff effective April 30, 2020. Defendant admits that as a result of this investigation, it concluded that Campbell had violated OHSU's sexual harassment policy and code of conduct. Defendant further admits that Campbell was referred for dismissal and resigned from his residency in lieu of discharge from OHSU.

11. OHSU admits that it reported Campbell's policy and code of conduct violations to the University of Florida as part of his summative program evaluation and reference check.

12. OHSU denies that Dean Sharon Anderson has ever given a “flippant” or “indifferent” response to sexual harassment, and denies Plaintiff’s characterization of its policies and practices and the investigation of her report.

13. OHSU denies that Laura Stadum stated that OHSU did not reach out to those who reported discrimination or that she was unaware of actions taken by OHSU. OHSU admits that it and Stadum promptly, thoroughly and fairly investigated all complaints of sexual harassment pursuant to its sexual harassment policies.

14. OHSU denies that researchers published a study finding that female surgeons were subject to gender discrimination at OHSU. Defendant admits that a February 2019 study concluded there was no gender-based pay discrimination at OHSU’s Department of Surgery. OHSU denies that Dr. Kenneth Azarow ever admitted to or engaged in sex discrimination.

15. OHSU admits that it routinely conducts exit interviews of staff and engages in other practices to identify sexual misconduct.

16. OHSU admits that it has a Title IX coordinator in compliance with Title IX.

17. OHSU admits that employees are required to participate in investigations into sexual misconduct and that OHSU investigates or seeks to resolve complaints of sexual harassment or violations of policy in accordance with survivor-centered and Title IX best practices.

18. OHSU admits that Plaintiff requested and received services, including payment for mental health therapy, through its Confidential Victim Advocate’s program.

19. Except as specifically admitted herein in paragraphs 1 through 17 above, OHSU denies each and every remaining allegation in Plaintiff’s complaint and the whole thereof.

OHSU denies that Campbell was acting in the course and scope of his employment at the time of

any alleged contact with Plaintiff. OHSU denies that any of the other providers or employees alleged to be “mandatory reporters” under Title IX were mandatory reporters under Title IX as alleged by Plaintiff.

FIRST DEFENSE

(Failure to State a Claim)

20. Some or all of Plaintiff’s claims fail to state a claim for relief under state law.

SECOND DEFENSE

(Oregon Tort Claims Act)

21. Plaintiff’s claims are subject to the privileges and immunities set forth in the Oregon Tort Claims Act, ORS 30.260 *et seq.* Any claim for damages is limited by the cap on damages set forth in the Oregon Tort Claims Act.

THIRD DEFENSE

(Title IX)

22. To the extent Plaintiff attempts to allege a Title IX claim, Plaintiff has failed to state a claim under Title IX as Plaintiff was neither employed by, nor a student attending OHSU at the time of her interaction with Cambell.

FOURTH DEFENSE

(Statute of Limitations)

23. Some of Plaintiff’s claims are barred by the applicable statute of limitations.

FIFTH DEFENSE

(Additional Defenses)

24. OHSU reserves the right to raise additional defenses that may become apparent during the course of discovery.

WHEREFORE, having fully answered Plaintiff's Complaint, OHSU prays for judgment in its favor, including an award of costs and disbursements incurred herein.

DATED this 10th day of March, 2021.

HART WAGNER, LLP

By: /s/ Karen O'Kasey

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Of Attorneys for Defendant OHSU

Defendant herein requests trial by jury on those issues properly submitted to a jury.

HART WAGNER, LLP

By: /s/ Karen O'Kasey

Karen O'Kasey, OSB No. 870696

Of Attorneys for Defendant OHSU

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of March, 2021, I served the foregoing **DEFENDANT OHSU'S ANSWER TO COMPLAINT** on the following party at the following address:

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by electronic means through the Court's Case Management/Electronic Case File system.

/s/ Karen O'Kasey

Karen O'Kasey